State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
June 29, 2005

ITEM: 6

SUBJECT: Basin Plan Amendment: Total Maximum Daily Loads for dissolved copper, lead, and zinc in Chollas Creek, tributary to San Diego Bay, and revision to the Toxic Pollutants section of Chapter 3 to reference the California Toxics Rule. (Tentative Resolution No. R9-2005-0111). (*Jimmy Smith*)

PURPOSE: Deliberate and consider adoption of a Tentative Resolution (Supporting Document No. 1) to amend to the Water Quality Control Plan for the San Diego Basin (9) (Basin Plan) to 1) incorporate Total Maximum Daily Loads (TMDLs) for dissolved copper, lead, and zinc in Chollas Creek, and 2) revise the Toxic Pollutants section of Chapter 3 to reference the federal California Toxics Rule (CTR). At the May 11, 2005 meeting, the Board received public testimony and comments on the TMDLs and Chapter 3 revisions. This item is scheduled for Board deliberation and adoption only. No public testimony will be allowed.

PUBLIC NOTICE: This item was originally scheduled for the June 8, 2005 Board meeting. The public notice of the item for the June 8 meeting was published in the San Diego Union Tribune on May 6, 2005. The item was rescheduled for the June 29, 2005 Board meeting. Public notice for the rescheduled item (Supporting Document No. 2) was emailed to the interested persons email list on May 17, 2005, and published in the San Diego Union Tribune on May 20, 2005.

DISCUSSION: Chollas Creek is an urban coastal stream in southern San Diego County, tributary to San Diego Bay (Supporting Document No. 3). Chollas Creek was placed on the Clean Water Act Section 303(d) List of Water Quality Limited Segments in 1996 for the metals cadmium,[1] copper, lead and zinc. The TMDLs and the wasteload allocations (WLAs) for the three metals are concentration based, and equal to 90 percent of the California Toxics Rule (CTR) criteria. The CTR criteria are expressed as hardness-based equations because hardness directly affects the toxicity of dissolved metals.

[1] Cadmium is recommended for de-listing.

Urban runoff conveyed through municipal separate storm sewer systems (MS4s) is the primary source of metals to Chollas Creek. Thus, owners of MS4s that discharge to Chollas Creek are primarily responsible for implementation of this TMDL. Stormwater discharges to the MS4s from certain industrial facilities and construction sites also contribute metals to Chollas Creek. The most reasonably foreseeable method of compliance with the TMDLs is for dischargers of urban runoff to and from the MS4s to initiate a program of structural and non-structural BMPs to reduce metals concentrations in urban runoff.

A public hearing on the TMDLs and Toxic Pollutants section revision was held on May 11, 2005. At the hearing, the San Diego Water Board extended the public comment period until May 25, 2005, and requested specific information from the dischargers on the amount of time they need to implement a BMP program to achieve the WLAs. The letters received during the comment period extension are provided in Supporting Document No.5. No comments were received on the revision to the Toxic Pollutants section. Written responses to the comments are provided in Appendix M of the Technical Report (Supporting Document No. 6).

Based on the comments, the compliance schedule to achieve the WLAs in discharges was changed from 7 years to 10 years. This schedule is significantly shorter than the 18 to 18.5 years the dischargers claimed they need to plan, finance, and construct BMPs. However, a 10-year compliance schedule is appropriate considering the dischargers' unmet obligation under existing Waste Discharge Requirements (WDRs) to take prompt action to address metals discharges to Chollas Creek, and the need not to lag behind the San Diego Bay sediment cleanup.

The Implementation Action Plan section was revised to clarify that the WLAs can be expressed as numeric water quality based effluent limitations, or as a program of expanded or better tailored BMPs in NPDES WDRs. The Environmental Review section was revised to identify potential environmental impacts and mitigation associated with general construction activities likely to occur because structural BMPs are likely to be built.

KEY ISSUES:

1. The 10-year compliance schedule is likely to be controversial since it is shorter than the time the dischargers claim they need to implement an effective BMP program.

2. The dischargers are opposed to expressing the WLAs as numeric effluent limitations in stormwater NPDES WDRs.

This decision will be made by the San Diego Water Board when the WDRs are issued, reissued, or revised.

3. The dischargers believe that the TMDL concentration based WLAs are extremely stringent and cannot be met with existing known BMP technology.

4. The stormwater dischargers believe they cannot effectively control pollutant discharges from sources such as automobile emissions regulated by other governmental entities such as the State Air Resources Board.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS

1. Tentative Resolution No. R9-2005-0111 and Attachment A, Basin Plan Amendment.
2. Notice of Rescheduled Public Board Meeting, dated May 17, 2005.
3. Location Map of Chollas Creek
4. Technical Report including Appendices A through L
5. Comment Letters Received after May 5, 2005
6. Response to Comments (Appendix M to the Technical Report).

RECOMMENDATION(S): Adopt Tentative Resolution No. R9-2005-0111.